



# CLASS 7

**TORTS AND PERSONAL INJURY**

# STATUTORY DUTIES

## **Negligence Per Se** rule:

- A person is automatically considered negligent if he or she violates any binding statute or ordinance and:
  - The harm that the statute was trying to prevent is the same as the harm that the defendant's conduct poses a risk of causing
  - The plaintiff is within the class of people that the statute intended to protect

# STATUTORY DUTIES (CONT.)

## **Duty to rescue:**

- Generally, there is no duty to rescue
- Exceptions:
  - 1) Special relationship between the parties (e.g., employer-employee or parent-child)
  - 2) The defendant was the cause of the plaintiff's being in harm's way in the first place
  - 3) Assumption of the duty to rescue, potentially causing other people to refrain from doing so
  - 4) A common carrier or innkeeper has a duty to come to the aid of passengers or guests

# SPECIAL RULES REGARDING DOCTORS

- Good Samaritan rule regarding doctors:
- If a doctor comes to the aid of an emergency patient...
  - 1) The doctor is not liable for harm suffered by the patient in the absence of gross negligence or intent to harm the patient.
  - 2) The doctor is entitled to collect a reasonable fee for his or her services in conducting the emergency treatment.

# VICARIOUS LIABILITY- RESPONDEAT SUPERIOR

## "Respondeat Superior":

- An employer is liable for employee's torts that are:
  - Committed within the scope of the employment, if they are negligence torts (note: "frolic vs. detour")
  - Reasonably within the job description of the tortfeasor, even if they are intentional torts
  - Outside the scope of the employment, if the employer's negligence in hiring or assigning was a big factor in the commission of the tort
  - One is not liable for the acts of an independent contractor unless negligent hiring or failure to adequately supervise the contractor was the cause of the harm



# QUIZ TIME

# VICARIOUS LIABILITY - OTHER SCENARIOS

- Entrusting a dangerous object to a third person when it is foreseeable that the third person will use it for a dangerous purpose will subject the original owner to liability.
- **“Family Purpose”** doctrine: If someone gives an immediate family member permission to drive his or her car and the person is negligent, causing an injury, the lender can be liable for the injury.

# VICARIOUS LIABILITY - OTHER SCENARIOS (CONT.)

- Some states assign liability to parents for actions of young children, especially when it's the parents' fault that the child had the ability to commit the tort.
- “**Dramshop laws**”: Many states assign liability to a tavern or bar for injuries to third persons who are injured because of the drunken actions of a person who was sold too much alcohol by the bar.